

# **RCMP EXTERNAL REVIEW COMMITTEE**

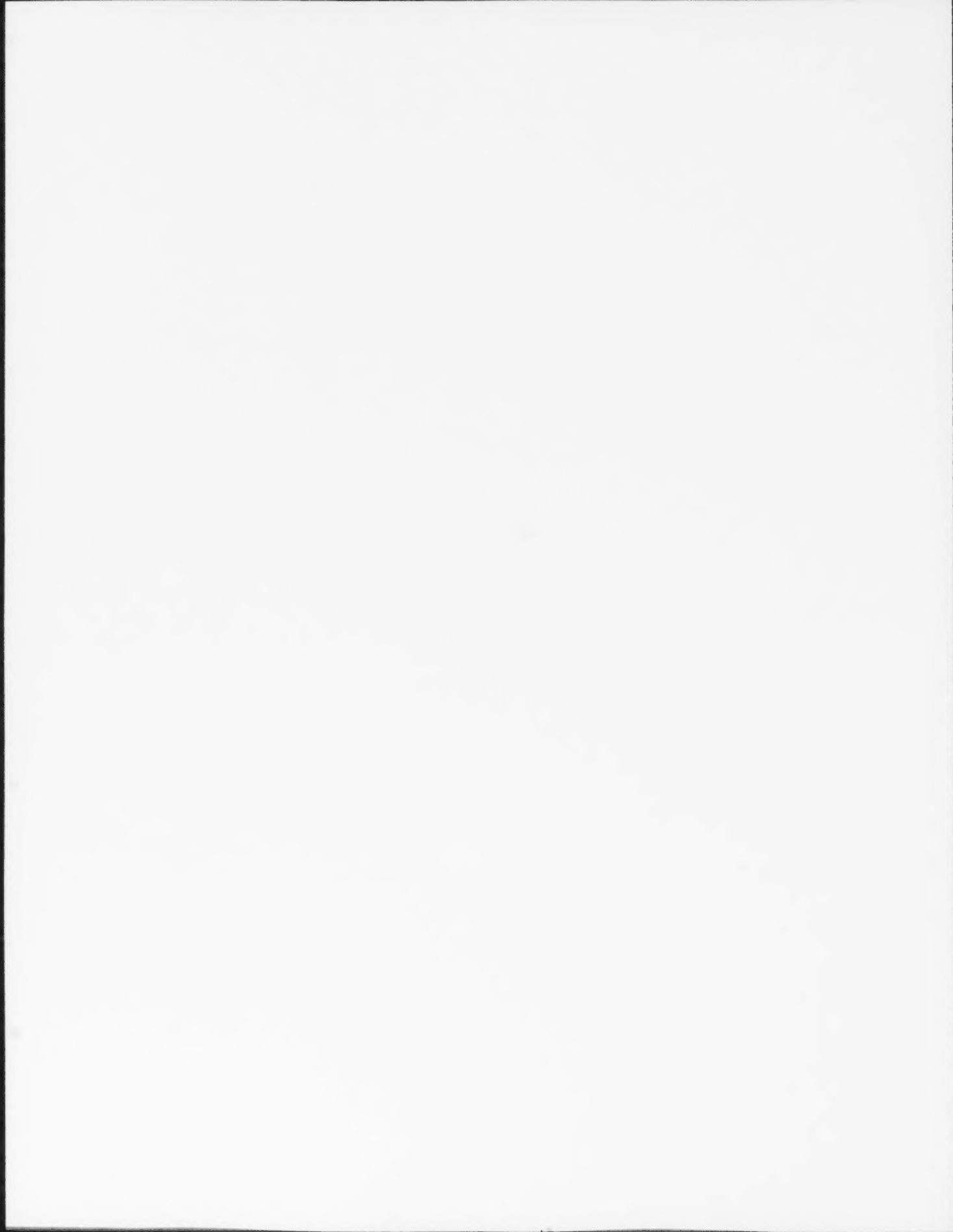
**2011-12  
Estimates**

## **Report on Plans and Priorities**

Approved

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The Honourable Vic Toews, P.C., Q.C., M.P.  
Minister of Public Safety  
(Public Safety and Emergency Preparedness)



## **Table of Contents**

<b>Chair's Message .....</b>	<b><u>1</u></b>
<b>Section I: Departmental Overview .....</b>	<b><u>3</u></b>
Raison d'être and Responsibilities .....	<u>3</u>
Strategic Outcome and Program Activity Architecture (PAA) .....	<u>4</u>
PAA Crosswalk .....	<u>5</u>
Planning Summary .....	<u>5</u>
Contribution of Priorities to Strategic Outcome .....	<u>7</u>
Risk Analysis .....	<u>8</u>
Expenditure Profile .....	<u>9</u>
<b>Section II: Analysis of Program Activities by Strategic Outcome .....</b>	<b><u>11</u></b>
Strategic Outcome .....	<u>11</u>
Program Activity by Strategic Outcome .....	<u>11</u>
Planning Highlights .....	<u>13</u>
<b>Section III - Supplementary Information .....</b>	<b><u>15</u></b>
Financial Highlights .....	<u>15</u>
Supplementary Information Tables .....	<u>15</u>
References .....	<u>15</u>



## Chair's Message

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The RCMP External Review Committee (ERC) made significant changes to its operations as a result of a proposed statutory revision to its enabling legislation. On June 17, 2010 the government sponsored a bill entitled *An Act to enact the Royal Canadian Mounted Police Labour Relations Modernization Act and to amend the Royal Canadian Mounted Police Act and to make consequential amendments to other Acts* (Bill C-43). In part, the Bill proposes the repeal of all references to the ERC in the statute on a date to be determined.

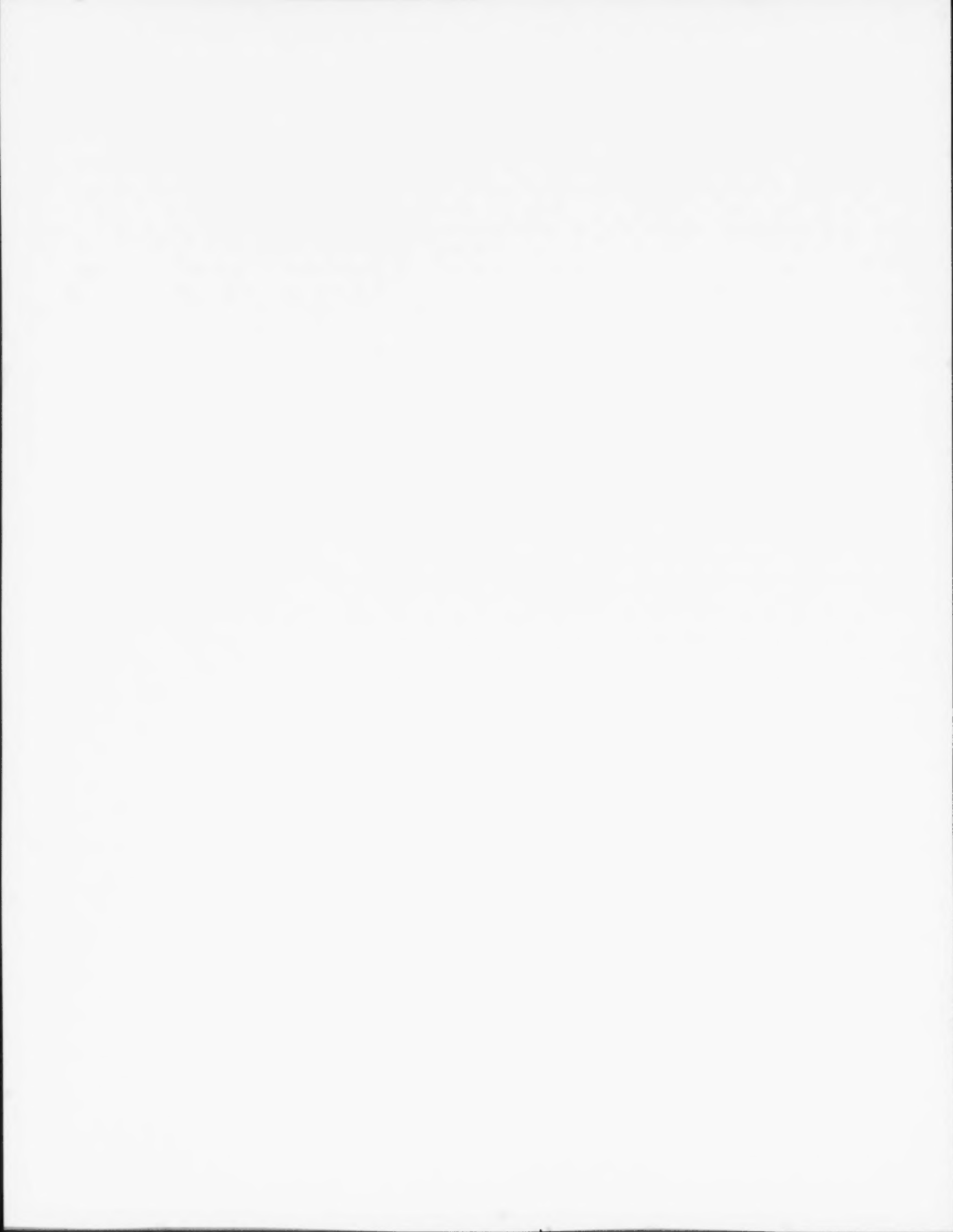
At the time of writing this Report, Bill C-43 is being debated in Parliament at second reading. Until the Bill is passed, the ERC continues to discharge its legislative obligations: issuing findings and recommendations to the Commissioner of the RCMP; fulfilling the reporting demands of central agencies; and issuing its annual report to Parliament through the Minister of Public Safety.

The ERC's plans and priorities for the future reflect a degree of uncertainty precipitated by the undetermined timing and nature of several possible eventualities. I am deeply grateful to the dedicated staff of the ERC who remain committed to serving Canadians by keeping in sight the ERC's Raison d'être and pursuing its Strategic Objective outlined herein.

Sincerely,

Catherine Ebbs  
Chair

January 28, 2011



## Section I: Departmental Overview

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### Raison d'être and Responsibilities

The RCMP External Review Committee (ERC) is an independent and impartial agency that aims to promote fair and equitable labour relations within the RCMP, in accordance with applicable principles of law. To this end the ERC conducts an independent review of appeals in disciplinary, and discharge and demotion matters, as well as certain categories of grievances that are referred to it pursuant to s. 33 of the *RCMP Act* and s. 36 of the *RCMP Regulations*.

The ERC reports directly to Parliament through the Minister of Public Safety. The ERC has one sole member, the Chair, who is appointed by an Order in Council, and is supported by an Executive Director and a very small staff. The ERC's jurisdiction is restricted to employment and labour matters that relate to regular members and civilian members of the RCMP only. Public servants employed by the RCMP have separate labour relations processes. The role of the ERC in the Force's labour/management resolution process is a crucial one. Over the years, the RCMP has made changes in a variety of areas based on recommendations made by the ERC.

As one of two oversight/review bodies over the RCMP, the ERC plays an important role in maintaining public confidence in the RCMP and ensures that it respects the law and human rights.

The ERC is within the Public Safety portfolio whose Minister is the appropriate Minister under the *Financial Administration Act*. The ERC's mandate is simply put: the independent and impartial review of grievances as well as appeals that involve the discipline, discharge and demotion of RCMP members. Upon completing its review of a case, the ERC presents findings and recommendations to the Commissioner of the RCMP for a final decision. The Commissioner is not bound by the recommendations of the ERC, but the Commissioner must provide reasons when there is disagreement with the recommendations of the ERC. In carrying out its mandate, the ERC ensures that its recommendations are solidly grounded in law and that members of the RCMP are treated in a fair and equitable manner, in keeping with the public interest.

## Strategic Outcome and Program Activity Architecture (PAA)

### Program Activity Architecture

Title	Description
SO - Strategic Outcome	Independent, impartial and thorough analysis, findings and recommendations for transparency in Royal Canadian Mounted Police (RCMP) grievances and appeals.
PA-1 - Independent and impartial case review	The ERC conducts an independent review of appeals in disciplinary, and discharge and demotion matters, as well as certain categories of grievances that are referred to it by the Commissioner of the RCMP pursuant to s. 33 of the <i>RCMP Act</i> and s. 36 of the <i>RCMP Regulations</i> . The ERC ensures that the principles of administrative and labour law are respected and that the remedial approach indicated by the Act is followed. The ERC issues reports of its findings and recommendations in each case to the Commissioner of the RCMP and to the parties. Access to the ERC's reports is made available to all stakeholders (including the parties, RCMP adjudicators, supervisors, members' representatives, staff relations representatives, and labour and employment experts in other jurisdictions) by means of its website, publications and presentations.
Internal Services	

### Internal Services

In fiscal year 2009-10, the Program Activity 'Internal Services' was appended to the ERC's PAA. As a result of its experience in attempting to meet the reporting requirements, the ERC determined that its uniquely small size made the reporting of this Program Activity particularly inaccurate. The related expenditures could not be reliably apportioned between program activities without an inordinate expenditure of resources. The Treasury Board of Canada Secretariat (TBS) agreed with the ERC's assertion. It granted the ERC an exemption from reporting on financial commitments to Internal Services as a separate Program Activity until the end of the 2010-11 fiscal year. The ERC's circumstances remain unchanged and given the state of flux it is currently experiencing, it has sought a second two-year exemption. While the exemption has not been confirmed, this report will present information indicating that the ERC has a single, distinct program activity.



## PAA Crosswalk

The ERC required amendments to its previously approved SO and PAA following a review of the first three years after the initial implementation of the ERC's PAA. The changes reflect recommendations made by TBS's Performance Measurement Framework (PMF) and have been encouraged by TBS through its Management Accountability Framework Round VII assessment. Therefore, the ERC amended its PAA in 2010 which the Treasury Board considered and approved in August 2010. The nature of the changes is considered to be major as they resulted in the merging of its previous two program activities. Consequently, the PMF was also revised. The table below indicates how those changes relate to the previous year.

2010-11	2011-12
<b>SO</b> - The RCMP External Review Committee aims to positively influence the manner in which labour relations issues are addressed within the RCMP.	<b>SO</b> - Independent, impartial and thorough analysis, findings and recommendations for transparency in Royal Canadian Mounted Police (RCMP) grievances and appeals
<b>PA-1</b> - Independent and impartial case review	<b>PA-1</b> - Independent and impartial case review
<b>PA-2</b> - Outreach and information dissemination	Element deleted
Internal Services	

## Planning Summary

### Financial Resources (\$ thousands)

2011-12	2012-13	2013-14
1,469	941	941

### Human Resources (Full-Time Equivalent - FTE)

2011-12	2012-13	2013-14
8	6	6

## Planning Summary Table

<b>Strategic Outcome:</b> Independent, impartial and thorough analysis, findings and recommendations for transparency in Royal Canadian Mounted Police (RCMP) grievances and appeals.					
<b>Performance Indicator</b>			<b>Target</b>		
Proportion of stakeholders who believe that the ERC is independent, impartial and brings transparency in the RCMP grievance and appeal processes.			90%		
Program Activity	Forecast Spending 2010-11 (\$thousands)	Planned Spending (\$thousands)			Alignment to Government of Canada Outcomes
		2011-12	2012-13	2013-14	
Independent and impartial case review	1,449	1,469	941	941	Well-managed and efficient government operations
Outreach and information dissemination	362	0	0	0	
<b>Total Planned Spending</b>	<b>1,811</b>	<b>1,469</b>	<b>941</b>	<b>941</b>	

Internal Services *	Forecast spending 2010-11 (\$thousands)	Planned Spending (\$thousands)		
		2011-12	2012-13	2013-14
	0	0	0	0

\* The ERC has sought to continue its exemption from reporting separately on Internal Services expenditures.

## Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Link to Strategic Outcome	Description
1. Continue to deliver on statutory mandate	Ongoing	Independent, impartial and thorough analysis, findings and recommendations for transparency in RCMP grievances and appeals.	<p><b>Why is this a priority?</b></p> <p>1. Contributes to the ERC's overriding priority to review cases and make sound recommendations to the RCMP Commissioner in an expeditious manner.</p> <p><b>Plans for meeting the priority:</b></p> <ul style="list-style-type: none"> <li>Longer-term strategic planning and streamlining of processes is planned for the future to continue to improve on service delivery.</li> </ul>
2. Raise awareness through Outreach	Ongoing	Independent, impartial and thorough analysis, findings and recommendations for transparency in RCMP grievances and appeals.	<p><b>Why is this a priority?</b></p> <p>2. Educational role the ERC plays contributes in a proactive way to a better understanding of grievance administration and discipline, and discharge and demotion appeals.</p> <p><b>Plans for meeting the priority:</b></p> <ul style="list-style-type: none"> <li>Provides key stakeholders with information on process, findings and recommendations of the ERC;</li> <li>Provides training where possible on labour relations; and,</li> <li>Engages the RCMP to further develop its governance framework.</li> </ul>
Management Priorities	Type	Link to Strategic Outcome	Description
3. Continue to invest in our people	Ongoing	Independent, impartial and thorough analysis, findings and recommendations for transparency in RCMP grievances and appeals.	<p><b>Why is this a priority?</b></p> <p>3. ERC places a priority on integrating the vision and intent of Public Service Renewal into its day-to-day activities.</p> <p><b>Plans for meeting the priority:</b></p> <ul style="list-style-type: none"> <li>Provides time and resources towards training and education that enhance existing skills and contribute toward current capacity building, and longer term career objectives of staff.</li> </ul>
4. Continue to improve on the corporate management framework and infrastructure	Ongoing	Independent, impartial and thorough analysis, findings and recommendations for transparency in RCMP grievances and appeals.	<p><b>Why is this a priority?</b></p> <p>4. ERC remains committed to meeting government-wide management and accountability priorities.</p> <p><b>Plans for meeting the priority:</b></p> <ul style="list-style-type: none"> <li>Stabilize corporate management framework and infrastructure based on available resources; and,</li> <li>Continue to develop MOUs for IM/IT, HR, and transactional financial support.</li> </ul>

## Risk Analysis

The ERC has followed its established operational plans pursuant to its approved funding from the Treasury Board for the consolidation of its office space and limited additional temporary staffing. On June 17, 2010 the government sponsored a bill entitled *An Act to enact the Royal Canadian Mounted Police Labour Relations Modernization Act and to amend the Royal Canadian Mounted Police Act and to make consequential amendments to other Acts* (Bill C-43). Bill C-43 proposed a number of changes including the dissolution of the RCMP External Review Committee. As a result of this Bill's proposal, the administration of the ERC reviewed several of its plans mid-year and monitored the progress of the Bill to review and alter long-term planning decisions.

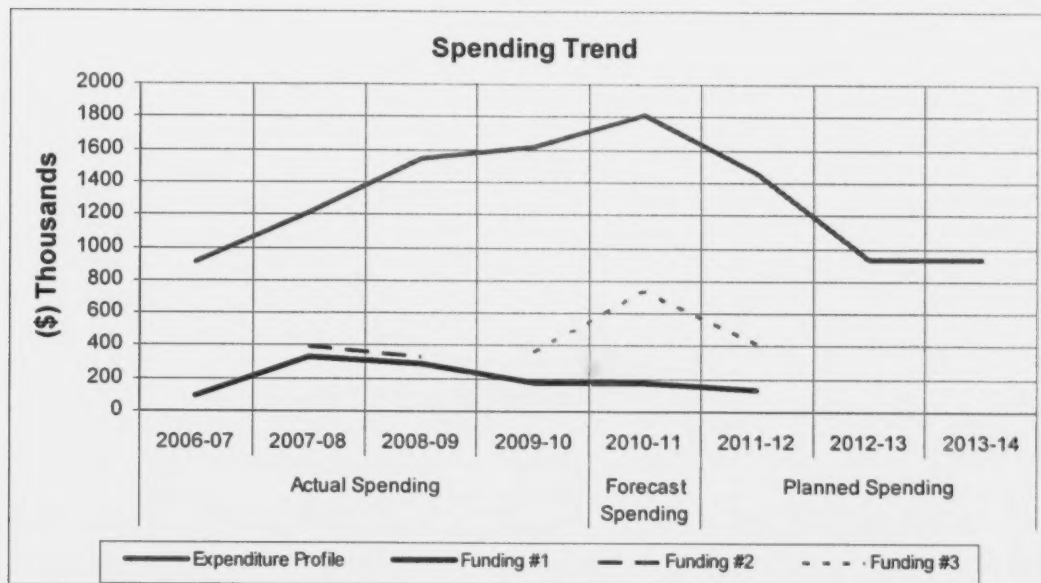
As of the date of this report, Bill C-43 was in the midst of debate during second reading. Parliament adjourned for the winter recess before the debate was concluded and before a vote was conducted to refer it to a parliamentary committee. As a result, the ERC would incur actual expenditures significantly lower than the planned expenditures. A sizeable lapse is expected to be realized.

Temporary funding was secured in 2006-07 from the Treasury Board Management Reserve to help alleviate a critical backlog of cases. This funding envelope closes in 2011-12. A second amount was secured from the Management Reserve in 2007-08 to accommodate and address corporate management pressures. This second funding envelope closed at the end of the 2008 calendar year. A third temporary funding envelope was secured starting in 2009-10. It is also due to close in 2011-12. The challenges related to the volume of pending cases and the time necessary to review them would have continued past 2012. The amendments to the *RCMP Act* proposed by Bill C-43 would eliminate external review in these pending cases. The unforeseeable consequences of the Bill lead the ERC to continue its pursuit of adequate future funding to keep current its caseload on an ongoing basis. Should the tenuous nature of the ERC's status result in a reduction in staff, the ability of the ERC to continue its operations will be seriously compromised. Should the legislative process become protracted and additional funding not be available, the ability of the ERC to respond to its main priorities will suffer and productivity may be affected on an organization-wide level.

In addition to case reviews, the ERC workload also includes significant reporting and corporate requirements that come primarily from Central Agencies. Given its small size and budget, the ERC is unable to employ staff with expertise in the variety of required reports, solely tasked to these activities. Therefore the ERC frequently re-assigns operational staff to work on unrelated corporate reports. These added reporting pressures have at times, contributed to delays in the case review process.

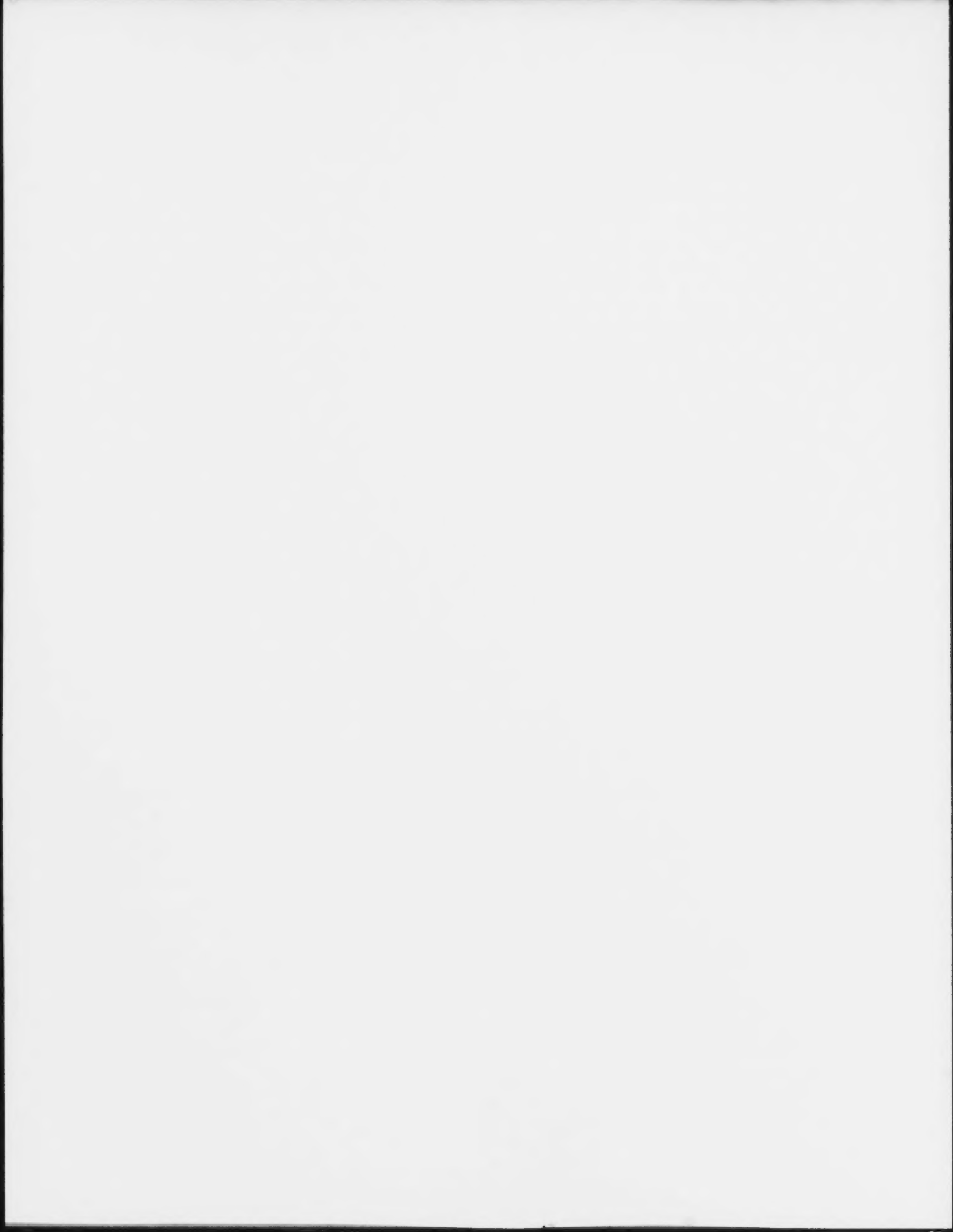
## Expenditure Profile

In the following table, the grey line represents the ERC's overall expenditure profile. The dotted black line represents the first Management Reserve funding envelope secured in 2006-07 to address the critical backlog of cases at the ERC, which closes in 2011-12. The black line represents the second funding envelope from the Treasury Board Management Reserve secured in 2007-08 to accommodate corporate management pressures, which closed at the end of the 2008 calendar year. The dotted grey line represents the third temporary funding envelope approved in the 2009-10 fiscal year, which also closes in 2011-12. The ERC had been seeking to secure permanent funding for 2012-13 onwards to accommodate the continuing effort on the part of the ERC to stay current with the rate of cases referred to the ERC and to further reduce the waiting time. These efforts have been curtailed pending the outcome of Bill C-43.



## Estimates by Vote

For information on ERC's organizational votes and/or statutory expenditures, please see the 2011-12 Main Estimates publication. An electronic version of the Main Estimates is available at <http://www.tbs-sct.gc.ca/est-pre/2011-2012/me-bpd/info/info-eng.asp>.





## **Section II: Analysis of Program Activities by Strategic Outcome**

### **Strategic Outcome**

Independent, impartial and thorough analysis, findings and recommendations for transparency in RCMP grievances and appeals.

### **Program Activity by Strategic Outcome**

In order to work towards achieving its strategic outcome, the ERC carries on a single program activity: Independent and impartial case review.

As indicated above, the Program Activity 'Internal Services' was appended to the ERC's PAA in fiscal year 2009-10. As a result of its experience in attempting to meet the reporting requirements, the ERC determined that its uniquely small size made the reporting of this Program Activity particularly inaccurate. The related expenditures could not be reliably apportioned between program activities without an inordinate expenditure of resources. The Treasury Board of Canada Secretariat agreed with the ERC's assertion. It granted the ERC an exemption from reporting on financial commitments to Internal Services as a separate Program Activity until the end of the 2010-11 fiscal year. In this area the ERC's circumstances remain unchanged and given the state of flux it is currently experiencing, it has sought a second two-year exemption. While the exemption has not been confirmed, this report will present information indicating that the ERC has a single, distinct program activity.

<b>Program Activity 1: Independent and impartial case review</b>					
<b>Human Resources (FTEs) and Planned Spending (\$ thousands)</b>					
<b>2011-12</b>		<b>2012-13</b>		<b>2013-14</b>	
<b>FTEs</b>	<b>Planned Spending</b>	<b>FTEs</b>	<b>Planned Spending</b>	<b>FTEs</b>	<b>Planned Spending</b>
8	1,469	6	941	6	941
<b>Program Activity Expected Results</b>		<b>Performance Indicators</b>		<b>Targets</b>	
Parties and RCMP Commissioner are provided with a timely independent review of the dispute to facilitate transparent and accountable dispute resolution.		Percentage of cases where findings and recommendations are issued, subject to party's right to withdraw.		100% of referred files, subject to party's right to withdraw.	
A body of findings and recommendations is made available to assist RCMP Adjudicators, parties, RCMP staff representatives to interpret legislation, regulations and policy.		Body of findings and recommendations is updated quarterly and made available online.		Updated within 2 months of end of quarter.	

<b>Program Activity 1: Independent and impartial case review</b>					
<b>Human Resources (FTEs) and Planned Spending (\$ thousands)</b>					
<b>2011-12</b>		<b>2012-13</b>		<b>2013-14</b>	
<b>FTEs</b>	<b>Planned Spending</b>	<b>FTEs</b>	<b>Planned Spending</b>	<b>FTEs</b>	<b>Planned Spending</b>
8	1,469	6	941	6	941
<b>Program Activity Expected Results</b>		<b>Performance Indicators</b>		<b>Targets</b>	
Public and Parliamentarians are advised of any areas for legislative, regulatory or policy change/clarification.		All recommendations for legislative change/clarification, if any, are provided to Parliament in annual report.		Annual report submitted before June 30 of each year.	
The public and RCMP labour relations stakeholders have access to timely and accurate information on employment and labour relations cases referred by the RCMP to the ERC.		Proportion of stakeholders with access to ERC reports.		94% have access to ERC reports.	

The ERC can dispose of matters referred to it by the RCMP Commissioner either on the basis of the material in the record or following a hearing. In conducting its review of the matters referred to it, the ERC attempts to achieve timeliness and quality in its recommendations, and a balance amongst the many complex and different interests involved. It strives to ensure that the principles of administrative and labour law are respected and the remedial approach indicated by the *RCMP Act* is followed. In each case, the ERC must consider the public interest and ensure that members of the RCMP are treated in a fair and equitable manner.

The ERC ensures that its findings and recommendations in each case are clearly explained for the concerned parties and the RCMP Commissioner. Summaries of the findings and recommendations in each case, as well as articles of interest on the role of the ERC, relevant legal principles and information on related issues, are distributed widely. Communication and outreach tools include: a quarterly publication (*Communiqué*), including the most recent case summaries, updates, and legal principles; a Website with timely inclusion of publications and case summaries; the annual report and other government accountability documents; and presentations, meetings, training and other outreach activities.

The ERC strives to make information available in a timely and accessible manner, with the objective of influencing in a positive way the RCMP labour relations environment, and contributing knowledge and ideas to the disciplines of administrative, employment, and labour law.

The ERC's focus on effectiveness and efficiency in both its case review process and management functions will assist it to achieve this result. The statutory mandate of the ERC in the *RCMP Act* is case review. It is in this respect that Program Activity 1 supports all priorities.



## **Benefits for Canadians**

Canadians are served through the ERC's contribution to fair, transparent and accountable labour relations processes within the RCMP. They are assured that RCMP members are treated by Canada's national police force as would be expected by Canadians whose tax revenues support it.

## **Planning Highlights**

### **Historical Operating Environment**

The strategic outcome of the ERC is the "*Independent, impartial and thorough analysis, findings and recommendations for transparency in RCMP grievances and appeals.*" The ERC is an independent arms-length agency created under the *RCMP Act*. The focus of the ERC's work is the impartial, independent and timely review of RCMP labour relations cases referred to it and the timely issuance of recommendations to the Commissioner of the RCMP.

As a very small agency, the ERC has one member who is both the Chair and Chief Executive Officer. She has been appointed by the Governor in Council for a term of three years, starting November 1, 2008. Under the *Act*, anyone who sits on the ERC cannot be a member or former member of the RCMP.

By law, the ERC's case review process starts when the Commissioner refers a case to it. The ERC itself cannot initiate a review without a referral from the Commissioner. The cases that must be referred are described in the *RCMP Act* and include disciplinary appeals, discharge and demotion appeals and certain categories of grievances. When the ERC conducts a case review, it examines the entire record including: the original documents, the decision made, and the submissions of the parties. Where the review involves the appeal of a disciplinary, or discharge or demotion decision, the transcript of the Adjudication Board hearing is also before the ERC, as well as any exhibits entered at the hearing. The ERC reviews all the evidence, legal issues, relevant legislation and judicial decisions in making its recommendation. After consideration of all the issues, the ERC provides findings and recommendations to the RCMP Commissioner, who is the final decision-maker.

The expeditious handling of cases referred to the ERC is fundamental to maintaining its integrity and credibility in carrying out its statutory mandate. The ERC routinely deals with, and must respond to, significant fluctuations in workload, as it has no control over the number of cases that are referred to it. The ERC has adopted a number of case management practices to ensure that its review process is as expeditious as possible and to enhance the quality of its findings and recommendations.

### **Recent Initiatives**

Given the current uncertainty about the ERC's eventual status as detailed above, there are a number of activities that have surfaced as new and emerging priorities for the ERC. These are

intended to take into account the continuity of its functions while Bill C-43 proceeds and the critical contribution of its staff in meeting its statutory obligations. These activities have included a number of initiatives that will continue into the next fiscal year.

Immediately upon tabling of the Bill, the ERC suspended its announced staffing processes to create a pool of pre-qualified LA-01 and LA-02s for determinate positions tied to short-term funding approved by Treasury Board. The ongoing office consolidation project was reviewed with Public Works Government Services Canada (PWGSC) to determine the feasibility of early termination. Given the advanced stage of the project and its commitments to third-party service providers and to its public service tenant-partners, the ERC pursued this project on the basis that all improvements were made in compliance with current PWGSC standards, making the office space suitable for any public service tenants. Where possible, office equipment purchases were restricted to only those for the ERC's small number of indeterminate employees. Additional expenditures were considered as certainty was gleaned as the Bill progressed in Parliament. Staff training was weighted towards preparation for employment in the greater public service at large.

The ERC's staffing strategy changed to one of locating appropriate suitable employment for its staff elsewhere in the public service. The ERC re-deployed resources from case review to strategic planning for its potential dissolution, particularly in regard to ensuring the best outcomes for present employees. The ERC is developing contingency plans in the event that present staff leave for more secure positions while the ERC continues its operations.

The ERC is committed to continuing its quality case reviews as long as required and to supporting any future form of labour relations structure that may be designed.

<b>Program Activity: Internal Services *</b>					
<b>Human Resources (FTEs) and Planned Spending (\$thousands)</b>					
<b>2011-12</b>		<b>2012-13</b>		<b>2013-14</b>	
<b>FTEs</b>	<b>Planned Spending</b>	<b>FTEs</b>	<b>Planned Spending</b>	<b>FTEs</b>	<b>Planned Spending</b>
0	0	0	0	0	0

\* The ERC has sought to continue its exemption from reporting separately on Internal Services expenditures.

## Section III - Supplementary Information

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### Financial Highlights

The ERC's future financial statements can be found on its website at the following address:  
<http://www.erc-cee.gc.ca/reports-rapports/dpr-rmr/index-eng.aspx>

### Future-oriented Condensed Statement of Operations

For the Year (ended March 31)

	Future-oriented 2011-12
Total Expenses	\$1,658,971
Total Revenues	\$0
Net Cost of Operations	\$1,658,971

### Supplementary Information Tables

1. Greening Government Operations
2. Upcoming Internal Audits and Evaluations over the next three fiscal years

All electronic supplementary information tables found in the 2011-12 Report on Plans and Priorities can be found on the Treasury Board of Canada Secretariat's web site at:  
<http://www.tbs-sct.gc.ca/rpp/2011-2012/info/info-eng.asp>

### References

RCMP External Review Committee P.O. Box 1159, Station B Ottawa, ON K1P 5R2  Tel: 613-998-2134 Fax: 613-990-8969 Website: <a href="http://www.erc-cee.gc.ca">www.erc-cee.gc.ca</a> E-mail: <a href="mailto:org@erc-cee.gc.ca">org@erc-cee.gc.ca</a>	<a href="#"><u>RCMP External Review Committee Annual Reports</u></a>  <a href="#"><u>RCMP External Review Committee Communiqué</u></a>
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